

State Police Commission



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Baton Rouge, La. 70896-6555
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General Circular No. 89

Issue Date: April 13, 1998

In Re: Rule Change Hearing

Pursuant to the provisions of State Police Commission Rule 2.10(a), the State Police Commission will hold a public hearing to consider repealing and reenacting State Police Commission Rules 13.12(a) and 13.12(d) of the State Police Commission Rules. The hearing will begin at 9:00 a.m. on Monday, May 18, 1998, in the Conference Room, Eleventh Floor, Wooddale Towers Building, 1885 Wooddale Boulevard in Baton Rouge, Louisiana.

Please review these proposals and furnish, in writing, by Thursday, May 07, 1998, any comments which you consider pertinent. If you would like to appear before the Commission and present your comments orally, you are invited to do so. You must notify this office by May 07, 1998 of your intention to address the Commission, to be placed on the agenda.

Please post this General Circular prominently, so that all employees will receive notice of this hearing. If any special accommodations are needed, please notify us prior to the hearing date.

Sincerely,

Debra L. Johnson

Debra L. Johnson
Director

Attachment

13.12 Delay for Making Appeal

- (a) No appeal shall be effective unless a written notice complying with the requirements of Rule 13.11 is either (i) received in the office of the Director of the State Police Commission (located at 1885 Wooddale Boulevard, Suite 1111, Baton Rouge, Louisiana), or (ii) is addressed to the Director of the State Police Commission at Post Office Box 66555, Baton Rouge, Louisiana 70896-6555, with proper postage affixed, and is dated by the United States Post Office:
1. Within thirty (30) calendar days after the date on which appellant received written notice of the action on which the appeal is based when written notice before or after the action is required by these Rules; or
 2. Within thirty (30) calendar days after the date when appellant learned or was aware that the action complained of had occurred when no written notice is required by these Rules or, if required, was given tardily or not at all.

REASONS:

This sub-section is being amended only to include the Commission's zip code in the mailing address.

13.12 Delay for Making Appeal

- (d) Except in the case of an appeal which is subject to being dismissed as defective, no appeal shall be supplemented or amended following the expiration of the delay period provided by Sub-section (a) hereof.

In the case of an appeal which is subject to being dismissed as defective, the appeal may be supplemented or amended only once after the delay period provided by Sub-section (a) hereof.

Upon notice to the parties that an appeal is subject to being dismissed as defective, the Commission or the Referee shall set the time in which the appeal may be supplemented or amended. To be considered, a supplement or amendment of an appeal must be received by or mailed to the Director within the time fixed. The receipt or mailing of the supplemented or amended appeal shall be the same as provided for the original appeal in Sub-sections (a) and (e) hereof. When requested by the appellant within the original time fixed for filing the supplemented or amended appeal, for good cause shown, the Commission or the Referee may extend the period in which the supplemented or amended appeal may be filed.

An appeal, which is supplemented or amended under the provisions hereof, may thereafter be summarily disposed of pursuant to the provisions of Rule 13.14.

REASONS:

The original Rule 13.12 (d) disallowed all supplements or amendments of an appeal after the expiration of the initial delay for filing the appeal.

The cases of Rocque v. Department of Health and Human Resources, Office of the Secretary, 505 So.2d 726 (La. 1987) and Carter v. Department of Revenue and Taxation, 563 So.2d 920 (La.App. 1st Cir. 1990), however, hold that, before an appeal may be dismissed as defective, an appellant must be allowed to supplement or amend the appeal.

This sub-section is being amended to conform with the decisions in Rocque and Carter.